IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

RCRev..No. 175 of 2007

RCA.48/2002 of RENT CONTROL APPELLATE AUTHORITY, TRIVANDRUM
RCP.117/2000 of RENT CONTROL COURT, TRIVANDRUM
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REVISION PETITIONER/APPELLANT/COUNTER PETITIONER:

K.VELAYUDHAN NAIR, S/O KESAVA PILLAI,
T.C.38/712, MARAKKADA ROAD,
CHALAI P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.L.MOHANAN
SRI.M.V.KIRAN MOHAN

RESPONDENTS/RESPONDENTS/PETITIONERS:

1. A.K.SALIM, S/O AHAMED KUNJU, AGED 50,
RESIDING AT T.C.36/943(1), VAYALIL VEEDU,
VALLAKADAVU P.O., THIRUVANANTHAPURAM.

2. SABITHA SALIM, W/O A.K.SALIM,
AGED 40, OF -DO- -DO-.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

R.C.R.No. 175 of 2007

ORDER

Balachandran, J.

The tenant is the revision petitioner. Respondents filed R.C.P.No.117/00 before the Rent Control Court, Thiruvananthapuram against the petitioner for eviction under Sections 11(2)(b), 11 (3), 11(4)(v) and 11(8) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'). The Rent Control Court on a proper evaluation of the evidence adduced in the case allowed eviction under Sections 11(2)(b), 11(3) and 11(8) of the Act, but, disallowed the claim for eviction under Section 11(4)(v) of the Act. The petitioner/tenant filed R.C.A.No.48/02 before the appellate authority assailing the order of the Rent Controller granting eviction under Sections 11(2)(b), 11(3) and 11(8) of the Act. The appellate authority, on a re-appraisal of the

entire evidence adduced in the case, came to the conclusion that eviction ought to have been granted under Section 11(8) of the Act and not under Section 11(3) of the Act and hence reversed the finding of the Rent Control Court as regards the claim under Section 11(3) of the Act, but concurred with the finding of the Rent Controller granting eviction under Section 11(2)(b) and 11(8) of the Act. It is assailing the concurrent findings of the authorities below under Sections 11(2)(b) and 11(8) of the Act that the petitioner/tenant has filed this revision.

2. The learned counsel for the petitioner has vehemently advanced arguments before us canvassing the correctness of the concurrent findings of the authorities below under Sections 11(2)(b) and 11(8) of the Act, attempting to invite our attention to the evidence adduced in the case and calling upon us to reappraise the entire evidence in the case. The findings of the authorities below in favour of the respondents, on a proper evaluation of the

entire evidence adduced in the case, which has resulted in the concurrent findings of the authorities below that the respondents/landlords are entitled to eviction of the petitioner/tenant under sections 11(2)(b) and 11(8) of the Act does not deserve any interference in revision by this Court.

3. There is absolutely no merit in this revision and this Rent Control Revision is dismissed, with, however, no order as to costs. The request made by the learned counsel for the petitioner to grant sufficient time to the petitioner/tenant to surrender vacant possession of the scheduled building also is turned down as he has not hitherto paid the rents in arrears, concurrently found by the authorities below.

(J.B.Koshy, Judge)

20th June, 2007

(K.P.Balachandran, Judge)

tkv